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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,422	01/09/2004	Nicolaos Tapazoglou	706697US1	8418

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EXAMINER
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BINDA, GREGORY JOHN

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/754,422

Applicant(s)

TAPAZOGLOU ET AL.

Examiner

Greg Binda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) 3-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/9/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species I shown in Figs. 1 & 2; Species II shown in Fig. 3A; Species III shown in Fig. 3B; and Species IV shown in Fig. 3C.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 & 6-9 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Ralph Smith on April 12, 2005 a provisional election was made without traverse to prosecute the invention of Species I, claims 1, 2 & 6-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3-5 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### *Specification*

4. The specification is objected to as failing to comply with 37 CFR 1.71 and 1.75(d)(1) because the detailed description fails to provide proper antecedent basis for the subject matter of claims 2, 6 & 9.

#### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2 & 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Winsen et al, US 3,903,982. Fig. 1 shows an automotive vehicle comprising: a motive power source 10; and a propeller shaft system 12 extending along a longitudinal axis for transmitting power from the power source to a differential 11, the propeller shaft system including a first section (indicated by the leftmost numeral 14) extending along the longitudinal axis between the power source and a mounting bracket (indicated by the leftmost numeral 13), the first section including a weakened area (see also "one deformation member" in col. 2, line 40) susceptible to buckling transversely to the longitudinal axis under a generally axial predetermined load, and a second section (see the unnumbered intermediate shaft section between the elements 13) adapted to be surrounded by a fuel tank and having a first end coupled to the first section at the mounting bracket and a second end coupled (via the rear shaft section) to the differential. Fig. 1 shows an additional mounting bracket (indicated by the rightmost numeral 13) located rearwardly of the mounting bracket and supporting the second section. Fig. 2 shows the weakened area comprises a tapered section 22 extending from a smaller diameter portion 20 of the first section to a larger diameter portion 21 of the first section.

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7. Claims 1 & 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller, US 6,435,299. Fig. 7A shows an automotive vehicle comprising: a motive power source 40; and a propeller shaft system extending along a longitudinal axis for transmitting power from the power source to a differential 48, the propeller shaft system including a first section 14 extending along the longitudinal axis between the power source and a mounting bracket 18, the first section including a weakened area (see Fig. 8) susceptible to buckling transversely to the longitudinal axis under a generally axial predetermined load, and a second section 16 having a first end coupled to the first section at the mounting bracket and a second end coupled to the differential. Fig. 7B shows an additional mounting bracket 44 located rearwardly of the mounting bracket 18 and supporting the second section. Fig. 7A shows the second section is partially surrounded by a fuel tank 43.

8. Claims 1, 2, 6 & 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Uchikawa et al, US 6,328,656. Fig. 1 shows an automotive vehicle comprising: a motive power source (see also col. 1, line 1); and a propeller shaft system 1 extending along a longitudinal axis for transmitting power from the power source to a differential (see also col. 1, line 7), the propeller shaft system including a first section 10 extending along the longitudinal axis between the power source and a mounting bracket 22, the first section including a weakened area 11 susceptible to buckling transversely to the longitudinal axis under a generally axial predetermined load, and a second section 30 adapted to be surrounded by a fuel tank and having a first end coupled to the first section at the mounting bracket and a second end coupled to the differential. Fig. 3 shows

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the weakened area 11 comprises a tapered section 14A extending from a smaller diameter portion 12 of the first section to a larger diameter portion 14B of the first section.

9. Claims 1, 2, 6 & 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacob, US 6,241,617. Fig. 1 shows an automotive vehicle comprising all the limitations of the claims.

10. Claims 1, 2 & 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Blumke et al, US 6,766,877. Figs. 1 & 23 show an automotive vehicle comprising: a motive power source 62; and a propeller shaft system 10 extending along a longitudinal axis for transmitting power from the power source to a differential 30, the propeller shaft system including a first section 20 extending along the longitudinal axis between the power source and a mounting bracket 25; and a second section 24 adapted to be surrounded by a fuel tank and having a first end coupled to the first section at the mounting bracket and a second end coupled to the differential. Figs. 18 & 22 show the first section (here identified by numeral 106) including a weakened area 147 susceptible to buckling transversely to the longitudinal axis under a generally axial predetermined load, Fig. 2 shows an additional mounting bracket located rearwardly of the mounting bracket and supporting the second section. Figs. 18 & 22 show the weakened area 147 comprises a tapered section extending from a smaller diameter portion of the first section 106 to a larger diameter portion of the first section.

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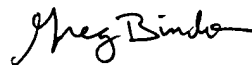
*Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bradley, Creek, Trommer and Masuda each show a shaft assembly with a weakened area. Walker and Bees each show a shaft assembly partially surrounded by a fuel tank.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Greg Binda  
Primary Examiner  
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